

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**Petition of BNE Energy Inc. for a  
Declaratory Ruling for the Location,  
Construction and Operation of a 4.8 MW  
Wind Renewable Generating Project on  
Winsted-Norfolk Road in Colebrook,  
Connecticut (“Wind Colebrook North”)**

**Petition No. 984**

**April 20, 2011**

**OBJECTION TO BNE’S SECOND MOTION FOR EXTENSION OF TIME, OR IN THE  
ALTERNATIVE, MOTION TO EXTEND THE PROCEEDINGS**

FairwindCT, Inc., Susan Wagner, and Stella and Michael Somers (collectively, the “Grouped Parties”) hereby object to the second motion for extension of time, filed by the petitioner, BNE Energy, Inc. (“BNE”), on April 19, 2011. Once again, BNE seeks more time in which to respond to interrogatory responses – time that no other party has received. BNE should be required to comply with the deadlines imposed on all other parties and intervenors by the Council. In the alternative, if the Council chooses to extend BNE’s deadline again, the deadline for the decision date in this proceeding should be extended by another week, as should the entire schedule for this proceeding.

In support of this Objection, the Grouped Parties state the following:

1. On February 2, 2011, the Council published the schedule for Petitions 983 and 984. This schedule included a March 8, 2011, deadline for the exchange of interrogatories between participants, and hearing dates of March 22 and 23, 2011.
2. A later-published schedule for Petitions 983 and 984 set forth a final deadline for exchange of interrogatories and additional pre-filed testimony of April 19, 2011 for Petition 984.

3. On March 9, 2011, BNE filed a motion to modify the pre-filing deadline in Petition 984, arguing that the pre-filed deadline with respect to Petition 984 could be moved to March 25, 2011, to allow BNE additional time to furnish responses to interrogatories, purportedly without prejudice to the other parties and intervenors.
4. The Grouped Parties objected to the relief requested in BNE's motion on March 15, 2011 – the day BNE's responses to interrogatories and its pre-filed testimony should have been filed. On March 16, 2011, Brandy Grant and Walter Zima, parties to Petition 984, also objected to BNE's extension request. On that same date, Robin Hirtle and Kristin and Benjamin Mow, parties to Petition No. 984, also objected to BNE's motion.
5. On March 17, 2011, the Council overruled the objections filed by the Grouped Parties, Hirtle/Mows and Zima/Grant and granted BNE its extension. BNE subsequently filed its interrogatory responses and pre-filed testimony 10 days later than the other parties and intervenors, despite carrying the burden in this proceeding.
6. On April 12, 2011, in accordance with the Council's later-published schedule for this proceeding, the Grouped Parties submitted additional interrogatories to BNE. Nearly all of these interrogatories are follow up questions asked in response to BNE's filings on March 25, 2011, and therefore could not have been asked prior to the Grouped Parties' review of those filings.

7. Now, BNE claims that it needs more time to respond to these interrogatories because FairwindCT “waited until the last possible day . . . to file 93 additional interrogatories to the petitioner in this proceeding.”
8. BNE asks that it be permitted to delay its responses to these interrogatories until March 25, 2011, the day before the evidentiary hearing opens in this proceeding, and claims that “there is no possible prejudice to any of the parties or intervenors in this proceeding” if the Council permits yet another delay.
9. The Grouped Parties object to BNE’s motion.
10. First, the Grouped Parties note that FairwindCT’s interrogatories were submitted to BNE on April 12, 2011, in accordance with the Council’s deadlines, and there is no dispute that the interrogatories were timely propounded to BNE. The Grouped Parties further have complied with each of the pre-filing deadlines, often at considerable effort and expense to the citizen groups opposing the BNE petitions. Certainly if citizen-funded groups are expected to maintain the Council’s deadlines, the petitioner should be as well.
11. Second, BNE’s claim that the Grouped Parties have somehow burdened BNE by requiring it to answer 93 interrogatories is meritless. As noted above, BNE waited until March 25, 2011 to file its interrogatory responses and pre-filed testimony in this proceeding. On that day, the other parties and intervenors were presented with new site plans, a new stormwater management plan, a new erosion control plan, information about new vernal pool studies, new on-site surveys for amphibians and reptiles, new bat studies and new bird studies. Of course the Grouped Parties

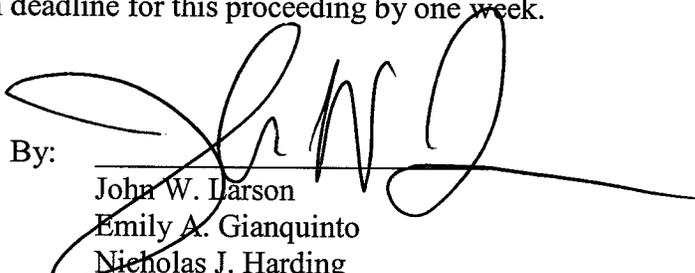
have questions about all of this new information that was filed four months after BNE's petition was filed.

12. The tight deadline of these proceedings and the Council's intent to limit the Grouped Parties' cross examination time to only 40 minutes for a dozen witnesses requires that the Grouped Parties make every effort to gather information by way of these interrogatories. BNE's repeated delays only serve to further burden and prejudice the citizens who are privately funding their own participation in these proceedings. BNE should be compelled to comply with the same deadlines the rest of the parties have been held to, particularly since BNE chose to file its two Colebrook petitions just a week apart, thereby causing this compressed and duplicative schedule itself. BNE cannot not claim that it is prejudiced by the overlapping schedules caused by its self-selected filing dates.
13. Third, BNE seeks to move the deadline to April 25, 2011, which is the day before the start of the evidentiary hearing for Petition 984 and only three days before the second day of the Petition 984 evidentiary proceeding. The Grouped Parties will certainly be prejudiced if they receive information at this late date and are expected to review it all and use it to conduct effective cross examination of BNE's witnesses the next day.
14. Finally, the Grouped Parties note that in filing its motion to modify on the day that its responses are due (a practice that would not be sanctioned in a judicial proceeding), BNE in effect already has been granted a de facto extension of time.

This is so because the Council will not have occasion to take up BNE's motion until the Council's April 26, 2011, meeting.

15. The Grouped Parties therefore urge the Council to enter an order extending the close of this proceeding by one week and extending the deadline for its decision on this proceeding by an additional week. If BNE does not consent to that extension, the Council should summarily deny BNE's petition.

WHEREFORE, the Grouped Parties object to BNE's second request for an extension in this proceeding, and move that the Council deny its request. In the alternative, the Grouped Parties move that the Council enter an order extending the closing date for this proceeding by one week and extending the decision deadline for this proceeding by one week.

By: 

John W. Larson  
Emily A. Gianquinto  
Nicholas J. Harding  
Reid and Riege, P.C.  
One Financial Plaza, 21st Floor  
Hartford, CT 06103  
Tel. (860) 278-1150  
Fax. (860) 240-1002

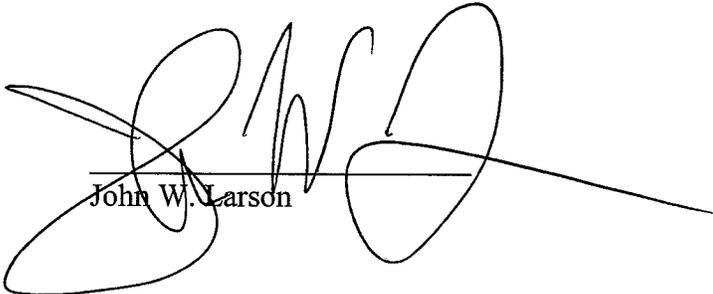
**CERTIFICATION**

I hereby certify that a copy of the foregoing document was delivered by first-class mail  
and e-mail to the following service list on the 20th day of April, 2011:

Carrie L. Larson  
Paul Corey  
Jeffery and Mary Stauffer  
Thomas D. McKeon  
David M. Cusick  
Richard T. Roznoy  
David R. Lawrence and Jeannie Lemelin  
Walter Zima and Brandy L. Grant  
Eva Villanova

and sent via e-mail only to:

John R. Morissette  
Christopher R. Bernard  
Joaquina Borges King



John W. Larson